IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.CJ.

APPEAL NO. 589 OF 2006
IN
NOTICE OF MOTION NO.639 OF 2006
IN
SUIT NO.3342 OF 1985

M/s.National (India) Contractors & Engineers .. Appellant
v/s.
Kantilal Humumchand Jain and others .. Respondents

Mr.Sanjay Jain with Ms.Usha Vishwanath i/by Mr.A.Q.Motiwala for the Appellant.

Ms.Kashmira Bharucha i/by M/s.Desai & Chinoy for the respondent Nos.6 to 10.

Mr.P.V.Palan for the respondent Nos.2 and 3.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 21ST AUGUST, 2006.

P.C.

Heard the counsel for the appellant and the counsel for the respondent Nos.6 to 10.

2. Mr.Sanjay Jain, advocate for the appellant informs us that the appellant is the owner of the subject property and that he intends to develop the property for which IOD has already been obtained from the Municipal Corporation of Greater Mumbai. He further submits that the respondent Nos. 6 to 10 shall not be dispossessed from the gala in their occupation nor the said gala

shall be demolished without following the process provided in section 95A of the Maharashtra Housing And Area Development Act, 1976. He also submits that it is incumbent upon the appellant to make available alternate temporary accommodation to all the occupants of the building who desire to have such accommodation including respondent Nos.6 to 10 and thereafter to provide permanent accommodation.

3. In the light of the submission made by Mr.Jain, we dispose of the appeal by the following order:-

i) The appellant shall file an undertaking in the suit that without following the process provided in section 95A, the respondent Nos.6 to 10 herein shall not be dispossessed from the gala in their occupation nor shall the gala be demolished without first making available alternative temporary accommodation to respondent Nos.6 to 10 and all those occupants who desire to have such accommodation. They shall also be provided with permanent accommodation thereafter.

ii) As and when the requisite formalities under section 95A are completed by the appellant, before demolishing the subject gala, the appellant shall make an application before the trial Judge and seek permission for demolition and satisfy the learned trial Judge

that the process contemplated under section 95A has been completed.

iii) Until then, the status-quo in all respects concerning the gala in occupation of respondent Nos.6 to 10 shall be maintained.

Appeal is disposed of accordingly.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)